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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 FLORA L. ROBINSON,

9 Plaintiff,

v.

10 BANK OF AMERICA  
11 CORPORATION, et al.,

12 Defendants.

CASE NO. C19-5150 BHS

ORDER GRANTING  
DEFENDANT'S MOTION TO  
DISMISS AND GRANTING  
PLAINTIFF LEAVE TO AMEND

13 This matter comes before the Court on Defendant Bank of America Corporation's  
14 ("BAC") unopposed motion to dismiss. Dkt. 8.

15 On January 28, 2019, Plaintiff Flora Robinson ("Robinson") filed a civil rights  
16 complaint in Pierce County Superior Court for the State of Washington against  
17 Defendants BAC, Manager Rachel Harris, Bank Teller Alicia, and Patricia Ortiz alleging  
18 violations of her Fifth, Eighth, and Fourteenth Amendment rights. Dkt. 1-1. On  
19 February 27, 2019, BAC removed the matter to this Court. Dkt. 1. On March 6, 2019,  
20 BAC filed the instant motion to dismiss. Dkt. 8. Robinson did not respond.  
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1 First, the Court considers Robinson's failure to respond as an admission that the  
2 motion has merit. Local Rules W.D. Wash. LCR 7(b)(2). Second, the Court agrees with  
3 BAC that Robinson fails to state a claim against BAC because Robinson fails to allege  
4 state action on behalf of BAC. *See* 42 U.S.C. § 1983. Finally, "[a] pro se litigant must  
5 be given leave to amend his or her complaint, and some notice of its deficiencies, unless  
6 it is absolutely clear that the deficiencies of the complaint could not be cured by  
7 amendment." *Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995). Upon review of  
8 the factual allegations, the Court finds that leave to amend is warranted. Robinson  
9 alleges that she is a disabled 80-year-old with health issues and that her BAC account  
10 was unexpectedly frozen for over four months. Dkt. 1-1. While it may be absolutely  
11 clear that Robinson may not bring civil rights causes of action against BAC, she may be  
12 able to properly articulate other causes of action against a bank that allegedly froze her  
13 account without explanation. Therefore, the Court grants BAC's motion and grants  
14 Robinson leave to amend. Robinson shall file an amended complaint or otherwise  
15 respond no later than June 28, 2019. Failure to respond will result in dismissal of this  
16 matter without further order of the Court.

17 **IT IS SO ORDERED.**

18 Dated this 31st day of May, 2019.

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BENJAMIN H. SETTLE  
United States District Judge